

Canadian Embassy



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January 21, 2003

A.J. Yates  
Administrator, Agricultural Marketing Services  
Country of Origin Labeling Program  
Agricultural Marketing Service, USDA  
STOP 0249, Room 3071-S  
1400 Independence Avenue SW  
Washington DC 20250-0249

RE: Doc. No. LS-02-16 Notice of Request for Emergency Approval of New Information Collection

Dear Mr. Yates;

The Agricultural Marketing Service (AMS) has invited the submission of comments that address the need for record keeping during the voluntary phase of the country-of-origin labeling (COOL) provisions of the *Farm Security and Rural Investment (FSRI) Act*. AMS has also asked respondents to address the practical "utility" of the information it proposes that industry collect.

Accurate, verifiable records are clearly necessary to back up the stringent breakdown of country-of-origin information by production points e.g., born, raised and slaughtered. However, this information alone does not provide a sufficient basis for sound management decisions and planning by industry as suggested in the notice. Limiting information-gathering to verification of COOL claims only, grossly underestimates the true costs of the mandatory COOL provisions.

Free trade in North America has resulted in a highly integrated market for the commodities now covered by the COOL legislation. Market integration at all levels of the value chain has resulted in efficiencies that have allowed American producers, processors, distributors and retailers to compete effectively in North America, as well as in other world markets. Consumers benefit from the intensity of the competition fostered by such an environment in the area of price, product choice, availability and quality. In the interests of consumers and industry, the rules should recognize and promote the mutual benefits of further integration.

The COOL provision of the *FSRI Act*, no matter how it is implemented, will restrict trade and dismantle the current level of integration, particularly for the red meat sector but also for other covered commodities. The attached short paper provides an illustrative listing of additional areas where information gathering would assist the AMS and industry in its

assessment of the COOL provision. We offer these comments without prejudice to our concern that the COOL provision will have a trade-restricting effect.

If you require any clarification, please contact either myself or John Masswohl at 202-682-1740.

Yours Sincerely,

*/signed/*

William R. Crosbie  
Minister-Counsellor  
(Trade and Economic Policy)

**GOVERNMENT OF CANADA**  
**COMMENTS ON REQUEST FOR EMERGENCY APPROVAL OF**  
**NEW INFORMATION COLLECTION**

**INTRODUCTION**

The Government of Canada is concerned that the proposed information-collection activities during the voluntary phase the country-of-origin labeling (COOL) provisions of the *Farm Security and Rural Investment (FSRI) Act of 2002* will not enable the Agricultural Marketing Service (AMS) or industry stakeholders to make informed decisions regarding the implementation of COOL. Limiting information-gathering to verification of COOL claims only, does not fully capture key issues or their associated costs. We offer these comments without prejudice to our concern that the COOL provision should be reconsidered with a view to its withdrawal. The following provides an illustrative list of areas where additional information collection would assist in the assessment of mandatory COOL.

**1. Increased government involvement**

**More bureaucracy.** While a small number of U.S. states and some other countries have country-of-origin labeling provisions, none are as onerous and as far-reaching as the COOL in the *FSRI Act*. The notion that existing resources and infrastructure are adequate for implementation and enforcement of this legislation is false. The COOL provision is an unprecedented retail-level measure without any apparent funding appropriation yet identified. What COOL proposes is creating a new level of Federal bureaucracy to be enforced in partnership with individual states that in a number of cases are already running budget deficits. The cost must ultimately be borne by industry on a user-pay basis or by U.S. taxpayers.

**2. Industry impacts**

**Small U.S. farmers will be hit hardest.** The costs of implementing relatively sophisticated tracking and tracing systems, which COOL effectively requires, will be disproportionately large for smaller U.S. farmers. Similarly, the management effort required to investigate alternatives and select a system as well as capital requirements will also be greater per unit of output for these same enterprises. Extension efforts may have to be carried out by States and other agricultural organizations. While many larger farms may have staff with appropriate expertise to implement record-keeping, smaller U.S. farms are more likely to have to contract with consultants or other suppliers from outside of their operation.

At other levels in the value chain, ongoing training of employees will be required to manage information, product inventories and displays in order to achieve and maintain compliance with the COOL provisions. In many cases the number of sources of products will almost certainly need to be reduced to lessen compliance costs. System maintenance, storage and retrieval of data for audit purposes represent additional costs in capital and time at all levels of the U.S. value chain.

**Increased transaction complexities.** U.S. auction yards and cattle dealers will also have to keep records. Individual cattle, or lots of cattle, are often co-mingled at auction yards or by country dealers. The information chain that would have to be maintained at this level may include tagging, reading tags, and given the absence of a mandatory universal animal identification system, management and transfer of country-of-origin information from a number of different identification systems from sellers to buyers.

**Who bears the cost of verification?** New contractual agreements, such as those recently announced by U.S. retailers, would require participation in verification programs like the proposed United States Department of Agriculture (USDA) Source Verified Program<sup>1</sup> for country-of-origin claims as a prerequisite for continuing to do business. For U.S. livestock producers, this program would also require participation in the American Information Number (AIN) system or another numbering scheme that provides for unique identification of animals. Ultimately, U.S. producers will bear the costs of verification for U.S.-origin products.

**Potential Penalty Costs for non-compliance.** Given the complexity of the COOL program and the lack of U.S. industry interest shown thus far in the interim voluntary program, it seems reasonable to expect that non-compliance may represent a significant cost to USDA and the U.S. industry. The analysis of mandatory COOL implementation should include an estimate of non-compliance determinations, multiplied by the \$10,000 penalty per instance (day). It should also include estimates of the associated legal fees incurred in the course of USDA's enforcement activities and the associated U.S. industry defense.

**Segregation Costs.** Costs to segregate production regimes (U.S. origin, from other countries and all other possible combinations of "born, raised and slaughtered", "grown and processed" for fruits and vegetables, "caught and processed", "wild" or "farmed" for fish and seafood) would be incurred at each level of the U.S. value-chain. This will often require expansion of processing facilities as well as cold storage and freezer space.

### **3. Market Effects**

**Competition may be weakened.** U.S. ranchers import feeder cattle from Mexico and Canada to raise them for slaughter. If retailers choose not to handle beef products of mixed origin in order to reduce COOL compliance costs, there will no longer be a market for these animals. A number of U.S. packers, especially those located in the northwest, are highly dependent upon cattle of mixed-origin and imports of Canadian-sourced slaughter animals to maintain viable throughput and capacity utilization. By extension, this threatens employment levels in these plants. COOL-induced closures of packing plants would weaken competition within the U.S. packing sector (fewer plants) and hence the marketing leverage of producers. Additionally, current U.S. feeder-cattle export trade with Canada may no longer be commercially viable. We believe that the analysis of COOL should also include the costs of lost market opportunities for the U.S. industry.

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<sup>1</sup>see Source Verified Program in Doc. No. LS-02-02 United States Standards for Livestock and Meat Marketing Claims, USDA, *Federal Register* Vol. 67, No. 250 December 30, 2002.

**Independent hog producers will be put out of business.** In 2001 U.S. hog producers in the U.S. Midwest imported over 4 million Canadian feeder pigs to raise for slaughter. Most of these U.S. finishers are smaller, independent hog operations that use their own corn or buy locally-produced corn for feed. If retailers choose not to handle pork products of mixed origin, there will no longer be a market for these animals. Approximately 2.0 million finishing spaces would be left empty because of the current lack of U.S. farrowing capacity. Similar to the case with cattle, a contraction of the flow through and capacity utilization may result in U.S. job losses and plant closures. Producers would have to ship to more distant processing establishments which would increase costs and the viability of smaller U.S. operations.

**Lower prices for everyone.** Over time, Canadian hog feeding capacity could very well be expected to increase to accommodate the feeder pigs formerly exported to the United States. Similarly, U.S. farrowing capacity may increase to fill the U.S. finishing spaces left vacant by COOL (but this may be difficult due to factors such as local regulatory constraints on farrowing and animal health considerations). Thus, total North American hog supplies would increase relative to the situation prior to the implementation of the COOL provision with prices to all hog producers in North America being lower as a result.

**Decreased cut out.** As foreign red meat exporters look to replace lost U.S. sales, meat exporters in the U.S. may face increased competition and discounting in key third-country markets, negatively affecting the U.S.'s ability to sustain exports at current levels. This would weaken domestic prices paid to U.S. producers as exports have been shown to have a positive impact on U.S. livestock prices.

**Changes in marketing behavior.** Canada currently ships feeder and slaughter hogs as commodities to the U.S. where value is added by the U.S. industry. AMS should include in its cost estimate of mandatory COOL implementation the expectation that Canadian exporters would turn to more value-added products in order to penetrate the U.S. market. Similarly, because the costs of ground meat product labeling for retail will be prohibitive under the COOL provision, U.S. distributors and retailers may increasingly choose to source better-priced fresh and frozen ground beef, pork and lamb from Canada and other countries. Imports may also target the U.S. food-service sector as it is exempted from the COOL provisions. Clearly, these changes in marketing behavior would represent lost revenue to U.S. slaughterhouses and processors.

**Upset of competitive balance.** The exclusion of poultry under COOL will upset the existing competitive balance in the consumer protein market by providing a windfall of distribution cost advantages relative to red meat. This will likely cause U.S. retailers to favor poultry in their merchandising efforts, resulting in discounting of red meat given the limits on consumer expenditures for all meat. This will force additional downward price pressure on U.S. red-meat producers.

#### **4. International Impacts**

**Creation of new market access problems.** The final mandatory COOL regulations could set a precedent for more extensive and even more restrictive process-oriented labeling programs

internationally. These include labeling initiatives for foods made from genetically modified raw materials (GMOs), animal husbandry and welfare practices, or even feed programs. Potential mimicry of COOL-like provisions by a wide range of U.S. trading partners would impose significant additional costs and loss of market share to U.S. export interests.

## **CONCLUSION**

In the summary which accompanies the interim voluntary guidelines published in the *Federal Register*, the assertion is made "that retailers will choose to participate in the voluntary program if the benefits outweigh the costs". Without information-collection activities that go beyond simply validating country-of-origin labeling claims, what would be the basis for such an assessment? Surely, individual U.S. stakeholders would not wish to implement either the voluntary or the mandatory COOL provisions without a clear understanding of the impact of compliance and well founded and reasonable estimates of the costs of implementation.

**Canada urges the repeal of the entire COOL provision.**